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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/739,642	12/20/2000	Tsuyoshi Kayanoki	Q62426	4749

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EXAMINER

KRUER, KEVIN R

ART UNIT

PAPER NUMBER

1773

DATE MAILED: 09/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-11

Office Action Summary	Application No.	Applicant(s)	
	09/739,642	KAYANOKI ET AL.	
	Examiner	Art Unit	
	Kevin R Kruer	1773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 05 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7-15,17 and 19-27 is/are pending in the application.
- 4a) Of the above claim(s) 1,7-11 and 19-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 2-5,12-15,17,26 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The 35 U.S.C. 112, second paragraphs of Paper #8 (paragraphs 2 and 3) have been overcome by amendment.

Claim Rejections - 35 USC § 102

2. The rejection of claims 2, 3, and 5 under 35 U.S.C. 102(b) as being anticipated by Yazaki et al (US 4,256,687) has been overcome by amendment.
3. The rejection of claims 2-5 and 12-15 under 35 U.S.C. 102(b) as being anticipated by Tsunashima et al (US 4,410,582) has been overcome by amendment.
4. The rejection of claims 2-4 and 12-14 under 35 U.S.C. 102(a) as being anticipated by Nagai et al (US 6,106,933) has been overcome by amendment.

Claim Rejections - 35 USC § 103

5. The rejection of claims 2, 3, 5, 12, 13, 41, 17, and 18 under 35 U.S.C. 103(a) as obvious over Jacoby et al (US 5,310,584) in view of Fujimori et al (US 4,623,190) has been overcome by amendment.
6. The rejection of claim 6 under 35 U.S.C. 103(a) as obvious over Yazaki et al (US 4,256,687) in view of Osborn et al (US 3,852,237) has been overcome by amendment.
7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-5, 12-15, 17, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsunashima et al (US 4,410,582) in view of Osborne et al (US 3,852,237). Tsunashima teaches a three-layered laminated film comprising a center layer of crystalline low molecular weight polyolefin, and two surface layers disposed on both sides of the center layer comprising a crystalline polyolefin (abstract). The laminate has a thickness of 6-130um (col 3, lines 1-18). The surface layer may have a surface roughness below 3um (col 7, lines 20+) and may comprise propylene homopolymers (col 4, lines 18+). For example, the surface layer may comprise an isotactic polypropylene having an isotactic index of 97.2% (col 1, line 46+).

The films of Tsunashima are not molded. However, the courts have held that a process of making a product does not patentably distinguish a product from the prior art unless it can be shown that the method of making the product inherently results in a materially different product. In the present application, the examiner takes the position that the film of Tsunashima reads on the claimed invention because it comprises the same layers with the same compositions as the claimed laminate.

Tsunashima teaches that the nucleated polypropylene should have a low haze (col 11, lines 25+) but does not teach that the article should have the claimed haze. However, Osborn teaches a combination of agents that markedly improves the clarity of nucleated polyolefins (abstract). Thus, it would have been obvious to one of ordinary skill in the art to utilize the additive taught in Osborn in the article taught in Tsunashima in order to reduce the haze of the article in Tsunashima because Tsunashima teaches that the article desirably has low haze.

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Tsunashima further teaches that the surface roughness of the film should be controlled in order to control the film's matting, reflectivity, and drawability (col 7, lines 20+). Specifically, Tsunashima teaches films with a roughness less than 3 μ m have improved drawability. Thus, it would have been obvious to one of ordinary skill in the art to reduce the surface roughness of the film in order to improve its reflectivity and drawability.

The examiner takes the position that it is the film taught by Tsunashima in view of Osborn and necessarily meets the claimed surface haze, because it is known in the art that the surface haze is primarily a function of surface roughness.

Response to Arguments

Applicant's arguments with respect to claims 2-5, 12-15, 17, 26, and 27 have been considered but are moot in view of the new ground(s) of rejection. In order to expedite prosecution, the examiner would like to take this opportunity to respond to some of Applicant's arguments that may be relevant to the newly applied rejections.

Applicant argues that neither Tsunashima nor Osborn teaches or suggests an article having a surface roughness of not more than 2 μ m and a total haze of less than 4%. The examiner acknowledges that neither reference explicitly teaches the claimed internal haze or surface roughness ranges. However, Tsunashima teaches films with a roughness less than 3 μ m have improved drawability. Thus, it would have been obvious to one of ordinary skill in the art to reduce the surface roughness of the film in order to improve its reflectivity and drawability. Furthermore, Osborn teaches a combination of additive that is taught to decrease the haze of a nucleated polyolefin. Thus, it would

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have been obvious to one of ordinary skill in the art to add the additive taught in Osborn to the article taught in Tsunashima in order to reduce the haze of the article in Tsunashima because Tsunashima teaches that the article desirably has low haze.

Thus, the examiner maintains that the claims are not patentable over the cited art for reasons stated herein.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R Kruer whose telephone number is 703-305-0025. The examiner can normally be reached on Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau can be reached on 703-308-2367. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

K-RK

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Paul Thibodeau
Supervisory Patent Examiner
Technology Center 1700